

**WHEN A MINOR IS NOT A "MINOR"**

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**TREATMENT AND ACCESS TO HEALTH INFORMATION**

**GENERAL RULE**

Generally, a minor cannot consent to treatment. Rather, the parent, guardian, or person in loco parentis must consent, and may access the minor's health information. A minor is defined, under Illinois law, as an individual under the age of 18.

However, there are a number of exceptions to this rule, based either on the status of the patient or on the medical condition of or treatment received by the patient.

**EXCEPTIONS BASED ON PATIENT STATUS**

The following patients are considered adults regardless of their age for purposes of consenting to medical care and access to their medical care records regardless of the type of care they receive:

- Married individuals
- Pregnant individuals
- Individuals who are parents -- such an individual can consent to treatment on their own behalf, and on behalf of their own child (this is true even if the parents are divorced or separated)
- It appears that if a minor was but no longer is a parent, he/she may no longer consent.
- Individuals who have been emancipated by a court in a formal court proceeding:
  - The individual must be between the ages of 16 and 18.
  - The individual must present a copy of the court order.

**EXCEPTIONS BASED ON TYPE OF CARE SOUGHT/RECEIVED**

Individuals under the age of 18 may consent to certain treatment as follows:

- 1) Psychiatry/Psychology
  - Outpatient counseling or psychotherapy -- Mental Health & Development Code:
    - 12 years or older for up to 5 visits, 45 min. each.
    - Parents only have access to medical information (or even the fact that the child is receiving treatment) if the child is under 12 unless the child gives consent.
    - Inpatient treatment and admission: 16 years or older for voluntary admission.
    - Parent should be notified of the admission.
    - Parents only have access to medical information (or even the fact that the child is receiving treatment) if the child is under 12 unless the child gives consent.
- 2) Treatment and Counseling for Sexually Transmitted Diseases if the minor is 12 years or older:
  - Health care provider may tell the parent.
- 3) Treatment for Alcohol or Drug Abuse:
  - Health care provider may not tell parents without minor's consent, unless it is necessary to protect the minor, a family member, or another individual.
- 4) Treatment for the effects on a minor of the minor's family member's alcohol or drug abuse:
  - Health care provider may not tell parents without minor's consent, unless it is necessary to protect the minor, a family member, or another individual.

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- 5) When she is pregnant, a minor may consent to an abortion if considered mature enough to make that decision or if she can show it is in her best interest:
  - The Illinois statute that requires us to notify the parent 48 hours in advance was suspended by the Northern District of Illinois.
  - Health care provider may not tell parents without minor's consent.
- 6) Treatment for criminal sexual assault or criminal sexual abuse and any injury disease resulting from the criminal act:
  - Evidence and information concerning an alleged sexual assault may be released (1) at the written request of the minor if the minor is 13 years or older, or (2) at the written request of the parent, guardian, investigating law enforcement officer, or DCFS if the minor is under the age of 13.
- 7) Birth control if failure to provide such services would create a serious health hazard or if referred for such services by a physician, clergyman, or a planned-parenthood agency.
- 8) Emergency conditions when obtaining consent is not feasible under the circumstances without adversely affecting the minor's health.

**SUMMARY**

Unless specifically stated above, the reasonable presumption is that the minor in all the situations except the emergency exception has and controls the access to his/her medical information for that condition or situation. For example, if Martha Minor is treated for a broken leg and for STDs, the information about her broken leg can be released to her parents, but not her treatment for her STDs unless she specifically consents to the release of the latter.

**ADDITIONAL REFERENCES**

Information about Personal Representatives can be found in the hospital policy [A05-30/PC 76 Personal Representatives of Patients](#).

If you have questions, please contact Legal Affairs at 2-1057.

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